Remarks

Claims 10-14 and 16-19 are now in this case. Claims 1-9 and 15 have been canceled. Claims 16-19 have been added.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Examiner contends that axially is not understood and questions whether it means longitudinal, circumferential, or radial. Examiner also points out that the term longitudinal was used in claim 3. Applicant has amended the remaining claims to consistently use the work longitudinally to refer to directions parallel to the longitudinal axis 36.

Regarding claim 10, Examiner contends that "aspect" is ambiguous. Applicant has amended the claims to refer to medial and lateral "sides".

Regarding claim 14, Examiner contends that "the wall thickness at element 26 (Figure 2) on 'the compression' side is clearly less than anywhere on the 'tensile side'. Applicant agrees and asserts that this is consistent with the claim language. However, to make it more clear, applicant has amended claim 14 to specify that the wall thickness at the bore opening is greater on the tensile side of the implant than on the compressive side.

Claims 1-2, 6-10, 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooks. Examiner relies on Brooks to teach a modular implant having a first component including a bore and a second component having a projection engageable with the bore. Likewise, claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sekel. Examiner also relies on Sekel to teach a modular joint implant including a male/female junction.

Amended claim 10 recites, *inter alia,* "a proximal body component having a top end for engaging the hip joint, a bottom end for insertion into the femur, a medial side, a lateral side, a neck formed adjacent the top end and a bore formed into the bottom end . . . " Neither Brooks nor Sekel disclose or suggest this arrangement for a proximal body that has a neck for engaging the hip joint at a top end and a bore in a bottom end. Brooks teaches a sleeve through which a hip implant may slide. Sekel teaches a hip stem with a modular neck having male tapers at each end. Amended claim 10 further recites "a stem component having a first end for engaging the proximal body component a second end for insertion into the femur, and a projection formed adjacent the first end, the projection having an exterior surface forming a male side of the male/female junction, the projection being engageable with the bore in male/female seating arrangement along the junction axis . . ." Sekel's "stem" component has no male projection engageable with a bore. Since neither Brooks nor Sekel disclose or suggest the above-described features of amended claim 10, it is allowable over them.

Applicant teaches in paragraph 19 of the specification that, "The relative motion at the opening 32 of the bore 30 is an accumulation of the relative motion along the entire length of the junction. This accumulated relative motion may be decreased by decreasing the length along which the relative motion accumulates on the tensile side of the junction. . . ." Both Sekel and Brooks fail to appreciate the problem or its solution. Sekel teaches a Morse taper junction having uniform engagement on all sides. Brooks further teaches away from Applicant's invention in that, his "stem 12 [is] permitted to move axially along the longitudinal axis 20 within sleeve 24 . . ." (Column 3 lines 5-10). Instead of trying to reduce motion at the junction, Brooks maximizes it. Furthermore, rather than reducing the area on the tensile side of the

implant, Brooks increases it (compare the length of contact on the lateral side to the length of contact on the medial side in FIG. 1). Given that the references fail to appreciate the problem or solution Applicant is addressing and further that they teach away from Applicant's invention, Applicant's invention is non-obvious in light of these references.

Claim 11 depends from claim 10 and is therefore allowable for the same reasons.

Amended claim 12 depends from claim 10 and is therefore allowable for the same reasons. Furthermore, amended claim 12 requires that "the contact between the male and female sides adjacent the bore opening on the lateral side is offset in the direction of increasing wall thickness." Sekel does not offset the contact between the male and female components.

Claim 13 depends from claim 10 and is therefore allowable for the same reasons.

Amended claim 14 requires "the wall thickness adjacent the contact at the bore opening being greater on the tensile side of the implant than on the compressive side of the implant. . . ." Neither Sekel nor Brooks teach this arrangement. It appears that Sekel's wall thickness is uniform while it appears that Brooks teaches away from the invention by having the wall thickness adjacent the contact at the bore opening greater on the compressive side. Since neither reference teaches the claimed arrangement and further since they teach away from applicant's invention, amended claim 14 is allowable over these references and is non-obvious in light of them.

New claim 16, based on canceled claim 3, depends from claim 10 and is allowable for the same reasons as claim 10.

New claim 17, based on canceled claim 7, depends from claim 10 and is allowable for the same reasons as claim 10.

New claim 18, based on canceled claim 8, depends from claim 10 and is allowable for the same reasons as claim 10. Note that the references are silent as to increasing stiffness and consequently are silent as to increasing stiffness on the lateral side of the junction adjacent the bore opening.

New claim 19, based on canceled claim 9, depends from claim 10 and is allowable for the same reasons as claim 10.

The claims now in this application are believed to be in condition for allowance and Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By: _____

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